

DEL BELLO DONNELLY WEINGARTEN
Pg 1 of 3

WISE & WIEDERKEHR, LLP

Erica R. Aisner
Partner
(914) 607-3153
eaisner@ddw-law.com

COUNSELLORS AT LAW
THE GATEWAY BUILDING
ONE NORTH LEXINGTON AVENUE
WHITE PLAINS, NEW YORK 10601
(914) 681-0200
FACSIMILE (914) 684-0288

Connecticut Office
1111 SUMMER STREET
STAMFORD, CT 06905
(203) 298-0000

June 21, 2018

VIA ECF AND EMAIL

Hon. Mary Kay Vyskocil
United States Bankruptcy Court
One Bowling Green
Courtroom 501
New York, New York 10004

Re: In re 733 Prospect Realty Services Corp., Case No. 17-10957-mkv

Dear Judge Vyskocil:

The undersigned represents 733 Prospect Avenue LLC (the “*Buyer*”), the proposed buyer for the Debtor’s real property located at 733 Prospect Avenue, Bronx, New York (the “*Property*”). I write this letter, jointly with counsel for the Debtor, to request that the Court schedule an immediate status conference, either in-person or telephonic, and/or permit the Debtor to re-notice a hearing to consider approval of the Debtor’s Disclosure Statement earlier than the current adjourned date of August 7, 2018.

By way of background, the Buyer, by and through its assignor, has been in contract (“*Contract*”) with the Debtor for the purchase of the Property since on or about April, 2018. The Contract was executed by the President of the Debtor, Maria Lopez Perez, and supported by a Resolution of the Board of Directors which is comprised of Maria Lopez Perez and Daniel Torres Cruz. The Contract provides for a purchase price in the amount of \$2.4 million which is more than enough to satisfy all creditors in full with interest and with a significant return to equity. The Buyer is a well-funded and experienced residential real estate developer in New York City and has no relationship whatsoever to the Debtor, its officers, directors or shareholders. The Contract is an all-cash deal, has no contingencies and the Buyer is prepared to close once Bankruptcy Court approval is obtained.

On May 15, 2018 the Debtor filed a Chapter 11 Plan and Disclosure Statement [ECF Docket Nos. 39 and 40] which provided, *inter alia*, for the sale of the Property pursuant to the Contract and payment in full of all creditors. On May 17, 2018 the Debtor filed a Motion to confirm the Plan and approve the Disclosure Statement (the “*Debtor’s Motion*”) and noticed a hearing for May 31, 2018. While the Debtor’s attempt to confirm a Chapter 11 Plan prior to

Hon. Mary Kay Vyskocil
United States Bankruptcy Judge
June 21, 2018
Page 2

approval of the Disclosure Statement was improper, as was the service of a Motion to approve a Disclosure Statement on only 14 days' notice. the Motion was ultimately adjourned to June 26, 2018 which constitutes proper notice for a hearing to consider approval of a Disclosure Statement under Federal Rule of Bankruptcy Procedure 2002(b).

In the interim, a competing Plan and Disclosure Statement ("*Suarez Plan*" and "*Suarez Disclosure Statement*", respectively) was filed by Jose Suarez ("*Suarez*") (who has held himself out to be a shareholder of the Debtor which is disputed by the Debtor's Board of Directors) which proposed to sell the Property to Sultan Equities LLC ("*Sultan*") for \$2.5 million. The proposed contract of sale with Sultan was signed only by Suarez and upon information and belief, without the authority of the Debtor's Board of Directors. The Suarez Disclosure Statement was noticed for a hearing on approval for June 26, 2018. However, on June 4, 2018 the motion to approve the Suarez Disclosure Statement was withdrawn and has not been re-noticed.

On June 19, 2018, Sultan requested an adjournment of the Debtor's Motion which was granted that same day by the Court without any opportunity to respond by the Debtor or any other party in interest. The Court has now scheduled the Debtor's Motion to be heard on August 7, 2018 (the "*Adjourned Date*").

It respectfully submitted that it is critical that the portion of the Debtor's Motion which seeks approval of the Disclosure Statement be heard as soon as possible. Stay relief was granted to NYCTL 1998-2/MTAG (the "*Trust*") by an Order entered on November 14, 2017 and both the Debtor and the Buyer have serious concerns that the Property could be auctioned at a foreclosure sale by the Adjourned Date. Furthermore, the Buyer has acted in good faith, incurred significant expenses and had its funds (contract deposit) sitting in escrow for months, on the expectation that the transaction would be placed before the Court for approval in the short term.

It is for these reasons that the Debtor and the Buyer respectfully request that the Court grant their request for an immediate status conference and/ or permit the Debtor to re-notice a hearing to approve the Disclosure Statement earlier than the Adjourned Date.

Hon. Mary Kay Vyskocil
United States Bankruptcy Judge
June 21, 2018
Page 3

Thank you for your consideration of this request. The undersigned will be out of the office Friday, June 22, 2018 so if the Court wishes to speak about this matter before Monday, June 25, 2018, kindly contact my partner, Jonathan S. Pasternak, Esq.

Very truly yours,

/s/ Erica R. Aisner

ERICA R. AISNER

ERA/

cc: Albert Barkey, Esq. (via email and ECF)
Counsel for the Debtor
Norma Ortiz, Esq. (via email and ECF)
Counsel for Jose Suarez
Nickolas Karavolas, Esq. (via email and ECF)
Counsel for the Trust
Gabriela Cacuci, Esq. (via email and ECF)
Counsel for the City of New York
Aaron Twerksy, Esq. (via email and ECF)
Counsel for Sultan Equities LLC
All other parties receiving ECF notification (via ECF)